

Perlindungan terhadap pemenang lelang yang risalah lelangnya dibatalkan oleh putusan pengadilan: analisis putusan Pengadilan Tinggi nomor 247/PDT/2018/PT.BDG tanggal 23 Juli 2018 = The protection of an auction winner when his auction deed was annulled by a court decision: the analysis of the High Court verdict number: 247/PDT/2018/PT.BDG dated 23 July 2018

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Abstrak

Tesis ini membahas mengenai perlindungan bagi Pemenang Lelang ketika Putusan Pengadilan membatalkan Risalah Lelangnya. Terkadang, pelaksanaan lelang pasal 6 UU Hak Tanggungan dibatalkan oleh Putusan Pengadilan. Dampaknya adalah Risalah Lelang menjadi tidak berkekuatan hukum. Selain itu, pembatalan lelang dan risalah lelang juga menyebabkan masalah hukum bagi Pemenang Lelang yang beriktikad baik sebagaimana dalam kasus putusan pengadilan tinggi nomor 247/PDT/2018/PT.BDG Tanggal 23 Juli 2018. Oleh karena itu, Penulis menganalisis bagaimana tanggung jawab Pejabat Lelang dalam putusan pengadilan tersebut dan perlindungan hukum yang seharusnya didapatkan oleh Pemenang Lelang. Penelitian ini menggunakan metode penelitian normatif dengan pendekatan analisis data kualitatif. Penulis menyimpulkan bahwa Pejabat Lelang tidak bisa dimintai tanggung jawab atas kerugian yang diderita Pemenang Lelang karena Pejabat Lelang telah menjalankan ketentuan yang tertera dalam Peraturan Menteri Keuangan Nomor 27/PMK.06/2016 Tentang Petunjuk Pelaksanaan Lelang. Pemenang Lelang seharusnya mendapatkan perlindungan berupa ganti rugi dari Penjual Lelang atas pembatalan penyelenggaraan lelang dan risalah lelang. Maka dari itu, Penulis menyarankan Pemenang Lelang mengajukan gugatan ganti rugi kepada Penjual Lelang. Selain itu, diperlukan pula adanya peraturan yang mengatur tentang gugatan pihak ketiga dalam lelang.

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This thesis discusses the protection of an Auction Winner when a court decision canceled his auction deeds. Occasionally, the judicial auctions of real property based on Article 6 of the Indonesian Mortgage Law were annulled by court decisions. As a result, the deed of the related auction would lost its legality. In addition, the cancellation of an auction and its auction deed also causes legal problems to the auction winner who acts in good faith as in the case of the auction winner in the Court Verdict Number: 247/PDT/2018/PT.BDG dated 23 July 2018. Therefore, the writer analyses the responsibilities of the Auctioneer in the aforementioned court verdict and the legal protections which ought to be obtained by the Auction Winner. This research utilizes a normative method with a qualitative data analysis approach. The writer concludes that the Auctioneer could not be held liable for the damages to the Auction Winner because he has implemented the auction procedures in accordance with the Minister of Finance Regulation Number 27/PMK.06/2016. The Auction Winner is supposed to obtain protection in the form of compensation from the auction seller due to the cancellation of the auction and its auction deed. Hence, the writer recommends that the Auction Winner claims damages against the Auction Seller. Besides, it is necessary to devise a regulation regarding the third parties lawsuit in the matter of auction.